



USCA DOCKET # (IF KNOWN)

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT CIVIL APPEALS DOCKETING STATEMENT

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

TITLE IN FULL: John Doe #1; John Doe #2; and Protect Marriage Washington, Plaintiffs, v. Sam Reed, Secretary of State, and Brenda Galarza, Public Records Officer, Defendants.	DISTRICT: Western	JUDGE: Benjamin H. Settle
DISTRICT COURT NUMBER: 3:09-cv-05456-BHS		
DATE NOTICE OF APPEAL FILED: September 15, 2009		IS THIS A CROSS APPEAL? <input type="checkbox"/> YES
IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY): <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div>		
BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW: See attached.		
PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL: Did the District Court err in entering a preliminary injunction which prevents the Defendant public officers from complying with disclosure of referendum petitions, required to be disclosed as public records under Washington's Public Records Act (PRA), and in declaring the PRA unconstitutional as applied to disclosure of these records?		
PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS): None.		
DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING: <input type="checkbox"/> Possibility of Settlement <input type="checkbox"/> Likelihood that intervening precedent will control outcome of appeal <input checked="" type="checkbox"/> Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify) <div style="border: 1px solid black; padding: 2px; margin-top: 5px;"> Motion to stay the preliminary injunction and a motion to expedite appellate review. </div> <input type="checkbox"/> Any other information relevant to the inclusion of this case in the Mediation Program <div style="border: 1px solid black; height: 20px; width: 100%; margin-top: 5px;"></div> <input type="checkbox"/> Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges		

LOWER COURT INFORMATION

JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY): <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION <input checked="" type="checkbox"/> APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <input type="checkbox"/> OTHER (SPECIFY): <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input checked="" type="checkbox"/> OTHER (SPECIFY): <div style="border: 1px solid black; height: 40px; width: 100%; padding-left: 5px;">Preliminary Injunction</div>	<input type="checkbox"/> DAMAGES: SOUGHT \$ <div style="border: 1px solid black; width: 100px; height: 20px;"></div> AWARDED \$ <div style="border: 1px solid black; width: 100px; height: 20px;"></div> <input checked="" type="checkbox"/> INJUNCTIONS: <input checked="" type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ <div style="border: 1px solid black; width: 100px; height: 20px;"></div> AWARDED \$ <div style="border: 1px solid black; width: 100px; height: 20px;"></div> <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$ <div style="border: 1px solid black; width: 100px; height: 20px;"></div>

CERTIFICATION OF COUNSEL

I CERTIFY THAT:

1. COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED.
2. A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2).
3. A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
4. I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.


 Signature

WSBA # 38101

September 15, 2009
 Date

COUNSEL WHO COMPLETED THIS FORM

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****THIS DOCUMENT SHOULD BE FILED IN DISTRICT COURT WITH THE NOTICE OF APPEAL. ****
****IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS.****

BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:

Plaintiffs moved for a temporary restraining order to prevent the Defendant public officers from releasing public records pursuant to RCW 42.56.070. The records which are the subject matter of this case are signed petition pages for a Public Referendum in Washington state which the Plaintiffs seek to have placed on this November's ballot.

The Washington Coalition for Open Government (WCOG), a non-profit, non-partisan advocate for open government, filed a public records request for access to the petition pages, which the Defendant public officers were enjoined from honoring based upon the District Court's TRO. The purpose of WCOG's request was to provide public oversight of the review of the state officials as to the validity of signatures submitted in the petition. WCOG's motion to intervene in the underlying lawsuit was granted by the District Court. Following a hearing in which WCOG was allowed to participate substantively, the District Court issued a preliminary injunction prohibiting the Defendant public officers from releasing the records to WCOG, as required under Washington state's Public Records Act (PRA), and declaring the PRA unconstitutional as applied to release of the public records.